



## **Department of Children and Families**

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### **Human Services Committee Select Committee on Children Informational Forum DCF Policy and Procedure**

**August 25, 2010**

## **DCF Mission**

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The DCF Mission is based on CGS § 17a-101

"The mission of the Department of Children and Families is to protect children, improve child and family well-being and support and preserve families. These efforts are accomplished by respecting and working within individual cultures and communities in Connecticut, and in partnership with others."

## **Overview**

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- ☐ DCF authority to initiate removal is vested by CT statute
  - DCF Policy is available on line at <http://www.ct.gov/dcf/> at "Policy and Regulations"
- ☐ 2,300 children were removed from their home in 2009

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## **Categories of Removal**

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- ☐ Administrative Hold (a.k.a. 96 Hour Hold)
  - CGS §17a-101g(e)
- ☐ Order of Temporary Custody
  - CGS §46b-129(b)
- ☐ Petitions for Neglect
  - CGS §46b-129(a)

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## **Legal Standards for Removal of a Child - 96-Hour Administrative Hold**

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- ☐ CGS §17a-101g
  - (e) Probable cause to believe that the child or any other child in the household is in **imminent risk of physical harm from the child's surroundings and that immediate removal from such surroundings is necessary to insure the child's safety**
  - (f) The removal of a child pursuant to subsection (e) shall not exceed ninety-six hours. . . If the child is not returned home within such ninety-six-hour period, with or without protective services, the department shall proceed in accordance with section 46b-129

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## **Legal Standards for Removal**

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- ☐ The standard for removal articulated in CGS §17a-101g balances the state's interest in protecting children and the parents' and child's constitutional right to family integrity
- ☐ DCF must have probable cause to believe that there is imminent risk of physical harm to the child and that it is necessary to immediately remove the child from the home to ensure the child's safety.

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## **Legal Standards for Removal**

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- A removal that is judicially reviewed, even *ex parte*, offers greater protection of a family's constitutional rights and is thus preferred over an agency administrative hold.
  - TENENBAUM v. WILLIAMS, 193 F.3d 581 (2nd Cir. 1999)

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## **Legal Standards for Removal – Order of Temporary Custody**

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- Per statute, DCF must return children to parents within 96 hours or seek an Order of Temporary Custody (OTC) from a court
- The standard for an *ex parte* OTC is similar to that of a 96 hour hold:
- "Reasonable cause to believe that (1) the child. . .is in immediate physical danger from the child's. . .surroundings and (2) as a result. . .the child's. . .safety is endangered and immediate removal. . .is necessary to ensure the child's. . .safety." CGS §46b-129(b).

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## **Legal Standards for Removal – Order of Temporary Custody**

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- ☐ An application for an *ex parte* OTC is filed with a neglect petition
- ☐ The application is presented to a judge and includes sworn affidavits from DCF social workers and mandated reporters and others who have specific first-hand information relative to the condition of the child and the danger to the child's safety if left in the home.
- ☐ DCF must show that it made reasonable efforts to prevent removal
- ☐ The reviewing judge may deny the *ex parte* OTC and order a show cause hearing, or
- ☐ Grant the OTC and order a hearing within 10 days of the *ex parte* removal.

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## **Legal Standards for Removal – Order of Temporary Custody**

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- ☐ At or prior to the first or preliminary hearing on the OTC, the court will appoint counsel for the children and parents (if they qualify).
- ☐ DCF is represented by the Office of the Attorney General
- ☐ The court will advise the parents of their legal rights, including the right to contest the OTC at a hearing which must be held within 10 days of the preliminary hearing.

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## **Legal Standards for Removal – Order of Temporary Custody**

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- ☐ If the OTC is contested, DCF has to prove the continuing need for removal by a fair preponderance of the evidence.
- ☐ The parents have a right to present evidence in opposition to DCF's case.
- ☐ If the OTC is confirmed, the court will order specific steps to the parents to follow in order to regain custody of the child and for DCF to follow to help the parents and schedule a hearing for the neglect petition.
- ☐ If the OTC is not confirmed, then the child is returned to the parents until final disposition on the neglect petition.

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## **Legal Standards for Removal – Neglect Petition**

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- ☐ DCF may file a neglect petition pursuant to CGS §46b-129(a) seeking commitment of a child without the prior removal of a child
- ☐ Abuse definition CGS § 46b-120
  - "abused" means that a child or youth (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment
- ☐ Neglect definition CGS § 46b-120
  - a child or youth may be found "neglected" who (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child or youth, or (D) has been abused

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## **Legal Standards for Removal – Neglect Petition**

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- ☐ DCF must provide notice to all parties and must make diligent efforts to locate all parties
- ☐ The court must hold a plea hearing not more than 45 days following the filing of the petition
- ☐ At the plea hearing the court will make findings regarding notice and appointment of counsel.
- ☐ If the parents wish to contest the neglect petition then the court will schedule a trial. Otherwise the court will proceed to disposition.

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## **Legal Standards for Removal – Neglect Petition**

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- ☐ While a neglect petition is pending in court DCF may request an OTC if conditions surrounding the child change and the child is in immediate physical danger and immediate removal is necessary to ensure the child's safety.
- ☐ The OTC may be issued *ex parte* or following a hearing

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## **Legal Standards for Removal – Neglect Petition**

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- ☐ DCF must prove by a fair preponderance of the evidence that the child is neglected, abused or uncared-for pursuant to CGS §46b-120.
- ☐ If DCF proves its case then the court adjudicates the child neglected and must decide what disposition is in the child's best interests.

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## **Legal Standards for Removal – Neglect Petition**

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- ☐ Possible dispositions are:
  - Commitment to the care and custody of DCF (guardianship to DCF)
  - Return to the parents under court ordered protective supervision (parents retain guardianship)
  - Transfer of guardianship to a relative or other suitable person.

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## **Legal Standards for Removal – Neglect Petition**

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- Following a commitment the court will order specific steps that the parents and DCF must follow to facilitate timely permanency for the child
- DCF must continue to make reasonable efforts to reunify the child and the parents unless and until a court finds that reasonable efforts are no longer necessary

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## **Legal Standards for Removal – Neglect Petition**

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- Unless parental rights are terminated, at all times during the neglect proceedings the parents retain their parental rights, which include, but are not limited to:
  - ☐ Visitation
  - ☐ Participation in case planning
  - ☐ Participation in medical and educational decision-making
  - ☐ Standing to seek return of the child

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## Process Leading to Removal

- ☐ Starts with call to the Hotline with suspicion of child abuse or neglect
- ☐ Determination is made as to whether the report meets the statutory criteria of reasonable cause to suspect child abuse or neglect
- ☐ If accepted a report is created and assigned for investigation
- ☐ If the investigation determines that the child is unsafe and immediate removal is necessary to ensure the child's safety, action is initiated to seek the removal of the child and an Order of Temporary Custody
- ☐ Active DCF ongoing services cases may seek the removal of the child without an OTC on the basis of a Petition of Neglect due to an unacceptable level of risk of harm to the child

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## Hotline

- ☐ An around the clock, centralized intake function with a toll free number  
**1-800-842-2288**
- ☐ All calls are recorded
- ☐ 93,907 calls in 2009
  - Average answer speed was 1 minute 54 seconds
- ☐ 42,354 calls were for suspected child abuse or neglect
  - 25,456 (60%) were accepted and assigned for investigation
  - National average per NCANDS (2007) was 62%

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## Hotline

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- ☐ Response time for accepted reports
  - 10% same day
  - 25% within 24 hours
  - 65% within 72 hours
- ☐ Reporting Sources
  - 77% were statutorily mandated reporters
    - ☐ The top two sources of mandated reports were school personnel (37%) and police (33%)
- ☐ Report Types
  - 83% of reports contained allegation of neglect with physical neglect (68%) the highest category of allegation

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## Investigations

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- ☐ 896 were initiated by Hotline Investigators to meet immediate response time
- ☐ The remaining 24,557 were conducted by area office investigators
  - >97% met the required response time

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## **Investigations**

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### ☐ Required contacts and sequence:

- Alleged victim
- Similarly situated children
- Corroborating individuals
- Non-offending parent (if a parent is the alleged perpetrator)
- Alleged perpetrator
- Non-custodial parent

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## **Investigations**

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### ☐ Required collateral contacts

- Must attempt to contact the mandated reporter prior to initiating an investigation
- Medical personnel
- School personnel
- Human service providers to the family within the past 6 months

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## **Investigations**

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- ☐ Required protocols
  - Domestic Violence screening
  - Substance Abuse screening
  - Structured Decision Making tools
    - ☐ Safety Assessment at initial home visit and subsequently as conditions warrant
    - ☐ Risk Assessment prior to making a finding

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## **Safety vs. Risk**

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- ☐ Safety is a determination as to whether the identified children in the home are safe at the immediate time
- ☐ 3 possible outcomes
  - Child is unsafe: action initiated to remove the child from the home
  - Child is conditionally safe based upon steps the parent and Department commit to immediately take to assure safety
    - ☐ Results in more frequent monitoring by the Department
  - Child is safe

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## **Safety vs. Risk**

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- Risk Assessment is a process of determining the likelihood that the children are in a category of children that are at a statistically significant greater likelihood of experiencing child maltreatment
  - It is not an individually predictive tool
  - It is an actuarial model that categorizes children and families based upon a set of factors known to be associated with child maltreatment

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## **Risk Assessment**

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- 4 Categories
  - High
  - Moderate
  - Low
  - Very low
- An investigation determination that the family falls into either of the two higher categories results in a recommendation to transfer the case for ongoing child protective service intervention
  - Regardless of whether child abuse or neglect was substantiated

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## **Investigation Disposition**

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- ☐ Substantiation based upon "reasonable cause" to believe or Unsubstantiated
  - Lack of substantiation does not "prove" that the allegation was false
- ☐ An individual determined to pose an "ongoing risk to children" is placed on the Central Registry
  - CGS §17a-101g and CGS §17a-101k
- ☐ An individual substantiated as a perpetrator of child abuse or neglect has the right to appeal
- ☐ Written notice of the finding must be given to the parents of the victim (including non-custodial parents) and to the perpetrator
- ☐ A decision is made regarding transfer of the case to ongoing services based upon the risk assessment, not the substantiation

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## **Once Children are Removed**

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- ☐ DCF is obligated by state and federal statute to make reasonable efforts to reunify the child with their family
- ☐ Treatment plans are developed for the child and for the family to achieve the permanency goal and the plans are formally reviewed every six months
- ☐ Concurrent planning goals are developed in the event that reunification is not possible
  - Transfer of Guardianship
  - Adoption
  - Another planned permanent living arrangement (APPLA)

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## **Permanency**

- ☐ The Court reviews each child's progress toward permanency annually
  - The Department must file a Motion to Review the Permanency Plan within 12 months of the child's entry into care
- ☐ The Court makes a determination as to whether efforts to reunify the child should remain in place

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## **Termination of Parental Rights**

- ☐ The Adoption and Safe Families Act requires a Petition to Terminate Parental Rights for all children that have been in foster care for 15 of the previous 22 months unless there is a "compelling reason" not to file

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## **Removal Considerations**

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- ☐ There is no simple algorithm that affords an objective determination for when children must be removed
- ☐ Factors affecting families with child welfare involvement
  - Have experienced domestic violence (> 30%)
  - Have mental health treatment needs (>30%)
  - Have substance abuse problems (>30%)
  - Have less than average cognitive ability (> 20%)
  - Have economic challenges (~ 80% are Husky A eligible)

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## **Removal Context**

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- ☐ Regardless of their safety consideration, children are traumatized by removal from their home
- ☐ Once removed from their parents by DCF, less than half return home permanently

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